

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 26 January 2007**

**CASE NO.: 2006-DBA-00011**

In the Matter of:

Disputes concerning the payment of  
Prevailing wage rates, proper classification and  
Overtime compensation by:

**HUNT BUILDING COMPANY, LTD., a corporation,**  
Prime Contractor

and

**GRAYEAGLE CONSTRUCTION, INC., a corporation**  
Subcontractor

With respect to laborers and mechanics employed by  
The Prime Contractor under HHS Project No.  
HHS11612004000 (Fort Defiance project, design and  
Construction of staff housing at Fort Defiance, Arizona)

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

These Consent Findings are entered into by and between the Administrator of the Wage and Hour Division, United States Department of Labor, hereinafter referred to as the "Administrator," and Respondents Hunt Building Company, Ltd., hereinafter referred to as "Hunt" and Grayeagle Construction, Inc., hereinafter referred to as "Grayeagle." The Administrator and Respondents hereby agree as follows:

- (1) A proceeding under 29 CFR Part 5, §§ 5.11(b) is now pending before the Office of Administrative Law Judges, U.S. Department of Labor ("DOL"), to determine a dispute concerning the payment of prevailing wage rates, proper classification and overtime compensation.
- (2) The Administrator and the Respondents agree to the settlement of this matter without need for a hearing. Jurisdiction of this matter is founded upon the procedures mandated under Reorganization Plan No. 14 of 1950 (64 Stat. 1267), the Davis-Bacon Act, as amended, 40 U.S.C. § 276a, *et seq.*, the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327 to 332, and the applicable regulations issued thereunder at 29 C.F.R. Part 5.

- (3) The parties agree that at all relevant times, Respondent Hunt was the prime contractor under a contract, covered by the provisions of the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, between Prime Contractor Hunt and the United States government (HHS Project No. HHS11612004000) to design and construct staff housing for the Indian Health Service at Fort Defiance, Arizona (the "Fort Defiance Contract").
- (4) The parties agree that at all relevant times, Respondent Grayeagle was a subcontractor under the Fort Defiance Contract.
- (5) Following an investigation of Respondent Grayeagle's employment practices on the Fort Defiance Contract, and by letters dated September 28, 2005 (the "Charging Letters"), the Administrator advised Respondents Hunt and Grayeagle of his investigative findings that Respondent Grayeagle's laborer and mechanic employees were underpaid a total of \$462,172.29 in violation of the prevailing wage requirements of the Davis-Bacon Act and in violation of the overtime requirements of the Contract Work Hours and Safety Standards Act. The Administrator further advised the Respondents of his intention to order restitution of the unpaid wage amounts due to Respondent Grayeagle's laborer and mechanic employees. Copies of the Charging Letters were attached as Exhibits A and B to these Consent Findings and are incorporated by reference.
- (6) The Respondents dispute that they owe \$462,172.29 in backpay and overtime wages. The Respondents timely filed a consolidated request for hearing. A copy of this consolidated request for hearing was attached to these Consent Findings as Exhibit C and is incorporated by reference.
- (7) Accordingly, on May 31, 2006, the Administrator issued an Order of Reference duly referring this matter for hearing pursuant to 29 C.F.R. § 5.11(b).
- (8) After further consideration of all of the surrounding circumstances, the Administrator hereby agrees to accept a total of \$350,000.00, representing a total of \$245,000.00 in Davis-Bacon Act underpayments and a total of \$105,000.00 in Contract Work Hours and Safety Standards Act underpayments as restitution due the Grayeagle laborer and mechanic employees, the names of whom are listed in Exhibit D which is incorporated into the Consent Findings by reference. The Administrator further agrees that the Charging Letters shall be deemed amended to reflect the above totals of Davis-Bacon Act and Contract Work Hours and Safety Standards Act underpayments and the overall amount of \$350,000.00 due to Grayeagle's laborer and mechanic employees.
- (9) The Respondents hereby withdraw their aforesaid request for hearing with respect to the Charging Letters and agree to the entry of these Consent Findings and an Order based on these Consent Findings.
- (10) Upon entry of these Consent Findings and Order and by way of payment of the agreed due back wages as computed above, the Respondents Hunt and Grayeagle authorize and

request the United States Department of Labor, the governmental agency presently holding the withheld sum of approximately \$350,000.00, to distribute to the above-named employees (or to their heirs or estates) amounts due to them pursuant to paragraph 8 herein. Any monies not distributed because of a failure to locate an employee or because of an employee's refusal to accept said distribution shall be deposited with the Treasurer of the United States, pursuant to 28 U.S.C. § 2041. Further, any monies withheld by the United States Department of Labor in excess of \$350,000.00 shall be returned to the Prime Contractor, Hunt.

- (11) Pursuant to 29 C.F.R. § 6.32(b), the parties further agree as follows:
- (a) This Order shall have the same force and effect as an Order made after full hearing.
  - (b) The entire record upon which the Order is based shall consist solely of the Order of Reference and these Consent Findings.
  - (c) The parties agree to waive any further procedural steps before the Administrative Law Judge and the Administrative Review Board regarding all matters which are the subject of these Consent Findings.
  - (d) The parties agree to waive any right to challenge or contest the validity of these Consent Findings and the Order entered in accordance with such findings.
- (12) The parties further agree that each party shall bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.
- (13) The Administrator agrees not to take any further administrative action, whether civil or criminal, (including, but not limited to any debarment proceeding) against the Respondents or their principals, agents, or employees with respect to the Fort Defiance Project.

The undersigned, having reviewed the Consent Findings, concludes that this settlement is in the best interests of all of the parties and it is therefore **ORDERED** that the settlement shall be, and the same hereby is **APPROVED** pursuant to the provisions of 29 CFR § 6.32.

**SO ORDERED.**

**A**

**COLLEEN A. GERAGHTY**  
Administrative Law Judge

Boston, Massachusetts